



**U.S. Department of Justice**  
**Office of Legislative Affairs**

Office of the Assistant Attorney General

Washington, D.C. 20530

January 5, 2004

The Honorable John Conyers, Jr.  
Ranking Minority Member  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Conyers:

This is in response to your October 31, 2003, letter to the Assistant Attorney General for Civil Rights, requesting that federal monitors be assigned to monitor a number of predominantly African-American precincts in the November 4 gubernatorial election in Louisville and Jefferson County, Kentucky, and your additional request that we investigate the proposed assignment of poll challengers to these precincts by local campaign officials to determine whether the Voting Rights Act has been violated. We apologize for any inconvenience our delay in responding may have caused you.

Without a federal court order under Section 3(a) of the Voting Rights Act ("the Act"), 42 U.S.C. § 1973a (a), federal observers can be assigned only to counties covered under Section 4(b) of the Act, 42 U.S.C. § 1973b (b), that are certified by the Attorney General for federal examiners under Section 6 of the Act, 42 U.S.C. § 1973d. Once a county has been certified for federal examiners, the Attorney General may then request, under Section 8 of the Act, 42 U.S.C. § 1973f, that the Office of Personnel Management assign federal observers to monitor any election held in the county. Federal observers have statutory authority to observe activities from within the polling places and to observe ballot counting procedures. Their activities are coordinated in the field by Voting Section attorneys from the Civil Rights Division.

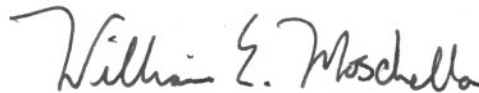
Jefferson County is not eligible for certification by the Attorney General because it is not covered under Section 4(b). Nor is there any court order authorizing the assignment of federal observers. Consequently, the Department had no authority to assign federal observers to monitor the November 4 election. However, the Department has on many occasions sent Department personnel to monitor elections in situations where there may be potential violations of federal voting rights laws. This type of monitoring does not require a court order, certification, or other formal authority. Unlike federal observers, however, Department staff have no statutory authority to enter polling places.

Approximately one week prior to the election, the Civil Rights Division's Voting Section received information about the assignment of poll challengers by local Republican campaign officials and allegations that they would be targeted to fifty-nine precincts with predominantly black populations. An attorney from the Voting Section immediately undertook an investigation of these allegations. Interviews were conducted of state and local election officials and we were advised by these officials that any poll challengers who attempted to intimidate or who challenged voters without a legally-valid reason would be ejected from the polling place in accordance with state law. These officials also stated that Republican campaign officials had told them that they assigned challengers to these precincts because there were no assigned Republican poll workers as allowed under state law, only Democrats. Subsequently, thirty-three Republicans were assigned by local officials as poll workers to resolve this problem. As a result, the number of predominantly African-American precincts at which Republican poll challengers were assigned was reduced from fifty-nine to eighteen. Nevertheless, the Civil Rights Division assigned Voting Section staff to monitor the November 4 election in Jefferson County.

Department attorneys monitoring the election on November 4 stayed in close contact with members of the Jefferson County Board of Elections, as well as local NAACP contacts, throughout the day. The monitors reported that they received no complaints of intimidation or other voting rights violations. Given this result, we have determined that, at this time, no further action regarding this matter is warranted.

If information regarding specific allegations of voter intimidation or other violations of federal law comes to your attention, please feel free to contact the Department of Justice. Please also do not hesitate to contact the Department if we can be of assistance in other matters.

Sincerely,

A handwritten signature in dark ink, reading "William E. Moschella". The signature is fluid and cursive, with the first name "William" and last name "Moschella" clearly legible.

William E. Moschella  
Assistant Attorney General

cc: The Honorable F. James Sensenbrenner  
Chairman